obsolete, are omitted; and there have been added some new chapters on ptomain poisoning, and on the detection of blood stains, as well as some special work on Wood Alcohol by Dr. F. M. Spalding. The classification of poisons in this edition is made according to their chemical and physical relations rather than by the similarity of symptoms following their use. An appendix contains full statements of some of the more important cases of poisoning which have come before the courts, illustrating either the symptoms produced by the use of the several poisons or the methods employed in the detection of poisoning. The law of Massachusetts on Medical Examiners, the law of Connecticut on Coroners, and the United States Report on Boric Acid, are also included in the appendix.

In the third volume, entitled "Physical Conditions and Treatment," the legal aspects of the subject have been treated by Mr. Bowlby; the medical, by Dr. Truman Abbe. Nothing of the fourth edition has been omitted, but the material has been considerably rearranged. The distinctly new work consists of some chapters on the effects of electricity; and chapters on the rights, duties, liabilities and legal limitations of physicians and surgeons in their personal relations, as well as in all situations arising from their acts.

There are ample footnotes to the important statements in the several volumes giving citations to the works of men in this country and abroad who have devoted special attention to this particular branch of legal study. At the end of each one of the three volumes is a complete analytic index, making it possible to use each volume independently. Generally speaking, treatises on medical jurisprudence lay so much stress on points arising in criminal practice that the very interesting questions which become of importance in civil cases are unduly slighted. In Wharton and Stillé this tendency, originally less apparent than in other books, grows less with succeeding editions. The growth of that portion of the work dealing with mental unsoundness is an illustration. For this reason the work should appeal to a larger class of readers; and despite the fact that Continental writers have made far more extensive researches in the field which it covers than English and American jurists, it is entitled to rank well among the general treatises of the present day. S. H. E. F.

A TREATISE ON THE CONFLICT OF LAWS, OR PRIVATE INTERNATIONAL LAW. By Francis Wharton. Third edition, by George H. Parmele. In two volumes. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co. 1905. pp. ccxxiv, 1–848; xxvii, 849–1830. 8vo.

The present edition of Wharton's Conflict of Laws, although a great improvement upon its two predecessors in its handling of the various topics considered, is, nevertheless, handicapped by Mr. Wharton's illogical and unscientific treatment of the subject. A most careful examination of the author's division of the questions involved in the Conflict of Laws fails to disclose anything remotely resembling a plan which he has followed. All topics, especially the law governing contracts, are in a state of confusion, the inevitable result of jumbling together the creation, recognition, and enforcement of rights.

The subject of jurisdiction, for one, as faulty in the present edition as in the past, is neither thoroughly grasped nor adequately treated. The editor supports the general trend of decisions in holding that the law to govern the creation of contracts is the law which the parties intend. He further urges that, in the absence of any expressed intention to the contrary, the law of the place of performance should govern, since that state is the one most interested in the contract. This position is due largely to the failure to distinguish clearly between the creation and the enforcement of the contractual obligation, and also to a misapprehension of the common law notion of the essential nature of law. For, according to the common law, law can have no extra-territorial effect. Since a contract is an agreement to which the law attaches an obligation, a state can attach an obligation only to acts committed within its borders. To

say that the law intended by the contracting parties should govern the creation of a contractual obligation is just as reasonable as to hold that a person who commits a tort with the intention of being governed by the laws of the state where such acts do not constitute a tort, is therefore not liable. Moreover, if the laws of the state intended by the parties govern the creation of contracts, how can that state be deprived of its jurisdiction by any legislation by the state where the acts are committed? One state having attached an obligation to certain acts, another state can by no amount of legislation affect its right to do so. Yet the law is, that where a state enacts a special law the intent of the parties will not govern.

This unscientific treatment, which vitiates the whole work, has led to many inaccuracies in the editor's treatment of the subjects of marriage (see § 237 b), and the status of legitimated children (§§ 250–251). While every state must recognize a status created by the proper law, yet the consequences that arise in any jurisdiction must depend upon the law of that jurisdiction.

In § 230 a the editor argues that although a divorce granted by a state where a party merely resides is void, yet a statute which expressly substitutes residence for domicile thereby overcomes the general principle that the law of the state where the party is domiciled governs. Why this should be so, the editor gives no reason. An action for divorce is an action *quasi in rem*, and the only state having jurisdiction over the status which is the subject of the action is the state where the parties are domiciled. How, then, can a state acquire jurisdiction over that status as long as neither of the parties is domiciled there? It is because it cannot, that a voluntary appearance by the parties does not confer jurisdiction. *Andrews* v. *Andrews*, 188 U. S. 14.

Again, in §§ 4 b and 257 a, the editor upholds the view that a judgment recovered under a penal statute cannot be enforced in another jurisdiction. This is due to the loose method of statement adopted by some courts in saying that a judgment is merely evidence of the existence of an obligation. The truth is, that the judgment merges the original obligation. An action can be brought on the judgment; it has a distinct statute of limitations, and defenses available in the original action cannot be pleaded in an action on the judgment. Suppose, instead of bringing an action on the penalty, the parties had made a contract, whereby, in consideration of the one releasing the other from his obligation, the other agreed to give a horse; no doubt such a contract would be enforcible everywhere. Why should there be any difference whether the new contractual obligation is created by assent of the parties, or by operation of law, since a judgment is a quasi-contractual obligation? Upon this ground Huntington *v.* Attrill, 146 U. S. 657, may be supported.

While the editor of this new edition has done his work with zeal and ability, no amount of editing can overcome the defects inherent in Wharton's Conflict of Laws. Whether a consciousness of the inadequacy of the original, or a large public demand for a work on this subject, or both, led to this new edition, the question still remains why so unscientific a work on the most scientific branch of the law should be deemed worthy of a new edition. S. J. R.

THE CIVIL CODE OF THE REPUBLIC OF PANAMA, and Amendatory Laws, Continued in Force in the Canal Zone, Isthmus of Panama, by Executive Order of May 9, 1904. Translated under the direction of Charles E. Magoon, General Counsel, Isthmian Canal Commission, by Frank L. Joannini. Washington, D. C.: Isthmian Canal Commission. 1905. pp. xvi, 681. 8vo.

Upon the declaration of its independence in November, 1903, the Republic of Panama, by proclamation, continued in force the pre-existing law, with such modifications as the political changes effected might require. The Panama code is, consequently, substantially identical with that of Colombia, and like the latter is Spanish in origin and development, being based upon the Roman law.